

PATENT
Attorney Docket No. 07580.0008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
Satoshi YOSHIDA *et al.*) Group Art Unit: 1655
Application No.: 10/553,798) Examiner: C. Chen
Filed: October 18, 2005)
For: AGENT FOR INCREASING) Confirmation No.: 6122
GRANULOCYTE MACROPHAGE)
COLONY STIMULATING FACTOR)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

APPLICATION FOR PATENT TERM ADJUSTMENT-PRE-GRANT

In accordance with 37 C.F.R. § 1.705(b), Applicant hereby applies for patent term adjustment under 35 U.S.C. § 154(b) of 120 additional days. This application is being filed before or with the issue fee payment, as required by 37 C.F.R. § 1.705(b).

I. Statement of the Facts Involved

A. Correct Patent Term Adjustment

Applicant received the Determination of Patent Term Adjustment with the Notice of Allowance and Fee(s) Due mailed from the Patent and Trademark Office (PTO) on July 7, 2010, advising that this application is entitled to 477 days of patent term adjustment.

Applicant has calculated a patent term adjustment of 562 days based on the following facts:

Relevant Dates

This application was filed as the National Stage of International Application No. PCT/JP04/05444, whose earliest priority date is April 18, 2003, based on JP 2003-115109. It fulfilled all of the requirements under 35 U.S.C § 371 on October 18, 2005.

The first Office action was mailed on January 22, 2007, resulting in a PTO delay of 35 days beyond the 14 months provided by 35 U.S.C. § 154(b).

Applicants filed a response on April 4, 2007.

A final Office action was mailed June 11, 2007.

Applicants filed a proposed Amendment After Final on September 13, 2007.

Although the Examiner at the time refused entry of the amendment, a Pre-Appeal Brief Conference Decision mailed December 12, 2007, reopened prosecution and entered the September 13, 2007, response. The Office subsequently issued an Office Action, which is listed in PAIR as mailed on March 30, 2009. The PTA calculation in PAIR reflects a PTO delay of 442 days based on this March 30, 2009, mail date.

However, the Office Action that Applicants eventually received was mailed July 28, 2009. This mailing corresponds to the July 28, 2009, mail date of the PAIR entry for a "Notice of Restarted Response Period".

Based on this July 28, 2009, mail date, Applicants believe the total PTO delay from Applicants' September 13, 2007, response was 562 days.

Thus, the total PTO adjustments based on delay is 597 days (562+35) days and the reductions in term adjustment is 0 days, resulting in a patent term adjustment of 597

days total. Applicant respectfully requests that the current patent term adjustment be reconsidered.

B. Terminal Disclaimer

This application is not subject to a Terminal Disclaimer.

C. Reasonable Efforts

There were no circumstances constituting a failure to engage in reasonable efforts to conclude processing of examination of the application, as set forth in 37 C.F.R. § 1.704.

II. Fee

As required by 37 C.F.R. § 1.705(b)(1), this application is accompanied by a check for \$200.00 to cover the required fee. Please charge any deficiencies to Deposit Account 06-0916. If there are any other fees due in connection with the filing of this request, please charge them to Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: August 27, 2010

By: 
Jessica H. Roark
Reg. No. 54,869